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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,798	02/28/2002	Mamoru Shoji	2002-0295A	3904

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EXAMINER

BATTAGLIA, MICHAEL V

ART UNIT

PAPER NUMBER

2652

DATE MAILED: 09/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/069,798	Applicant(s) SHOJI ET AL.	
	Examiner Michael V. Battaglia	Art Unit 2652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 28 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 8-10 and 14 is/are pending in the application.  
     4a) Of the above claim(s) 8 and 14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 9 and 10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

*Election/Restrictions*

1. Applicant's election without traverse of Invention II in the reply filed on June 28, 2005 is acknowledged. Claims 8 and 14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Maeda (US 6,272,085).

Maeda discloses an optical data recording method for recording data to a first data recording layer of an optical disc with at least the first data recording layer and a second data recording layer with at least the first data recording layer being optically recordable, the optical recording method comprising: determining for specific area units ("sectors" of Col. 14, lines 61-65) whether recording is possible (inherent for the presence of "defect sector(s)" on Col. 14, lines 19, 24, 26 and 59-60); and recording dummy data ("dummy data" on Col. 14, lines 18, 23, 54, 59 and 62) to an area (Fig. 12A, elements 4 and 5 and "defect sector(s)" on Col. 14, lines 19, 24, 26 and 59-60) determined to be unrecordable (Col. 12, lines 24-25) after recording data (data of sectors 1 and 2 of Fig. 12C) originally designated to be recorded to the area (Fig. 12B, sectors 1 and 2) determined to be unrecordable is recorded to a spare area (Fig. 12, element 102) (Fig. 15, elements ST35 and ST36 and Col. 14, lines 14-65 (particularly lines 14-29 and 53-65)). It is noted

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that Meada discloses recording dummy data to an area determined to be unrecordable so that the recording operation is continuously carried out and data is recorded in minimum data access time (Col. 14, lines 14-29). Data of Maeda originally designated to be recorded to the area determined to be unrecordable is shifted to a leading area that ahead of the area determined to be unrecordable (Fig. 12 and Col. 12, lines 23-35). Therefore, when the recording operation is continuously carried out, data originally designated to be recorded to the area determined to be unrecordable is recorded before dummy data is recorded to the area determined to be unrecordable.

*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maeda as applied to claim 9 and further in view of Mine (US 5,966,358).

Maeda discloses the optical data recording method of claim 9 but does not disclose the manner in which a specific area unit is determined to be unrecordable.

Mine discloses that a specific area unit ("sector" of Col. 6, line 27) is determined to be unrecordable when reading address data ("physical block address" of Col. 6, line 27) assigned to the specific area unit does not meet specific reading conditions (Col. 6, lines 24-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to determine the specific area unit of Meada to be unrecordable when reading address data assigned to the specific area unit does not meet specific reading conditions as suggested by Mine, the motivation being to determine a specific area unit to be unrecordable in a manner known in the art.

#### *Response to Arguments*

4. Applicant's arguments, filed January 24, 2005, with respect to claims 9 and 10 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael V. Battaglia whose telephone number is (571) 272-7568. The examiner can normally be reached on 5-4/9 Plan with 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (571) 272-7579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Battaglia



BRIAN E. MILLER  
PRIMARY EXAMINER